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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,714	08/06/2001	Kenichi Tokudome	B-4268 618985-2	1118
36716	7590	06/14/2005	EXAMINER	
LADAS & PARRY			BLOUNT, STEVEN	
5670 WILSHIRE BOULEVARD, SUITE 2100			ART UNIT	
LOS ANGELES, CA 90036-5679			PAPER NUMBER	

2661

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/923,714

Applicant(s)

TOKUDOME, KENICHI

Examiner

Steven Blount

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2001.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1 - 22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 7, 9 – 11, 13, 17, and 19 – 22 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. patent 6,728,216 to Sterner.

With regard to claim 1, Sterner teaches two data rates (10, 100 Mbs) wherein the 100 Mbs data rate corresponds to the error free mode; a detecting device 46 (see col 5 lines 50+) that detects a change in connection (col 8 line 25); and a control device 34 (col 5 lines 40+) that resets the data rate when the change in connection is detected. Sterner also teaches that "The repeater 10 also includes a 10 Mb/s repeater core 22 and a 100 Mb/s repeater core 24. The repeater cores 22 and 24 are configured for sending and receiving data packets between selected repeater ports according to the respective data rates" (col 3 lines 65+), wherein one of ordinary skill in the art would find it obvious to associate the immediately preceding citation with "non-volatile memory".

With regard to claim 3, see the mention of cable in col 8 lines 25+.

With regard to claim 7, the error rate change is the specification of data.

With regard to claim 9, see the discussion of transmission speed above.

With regard to claim 10, see discussion of errors in the transmission above.

With regard to claim 11, see the discussion of claim 1 above where the claimed elements are taught.

With regard to claims 13, 17, 19, and 20, see the rejections of claims 3, 7, 9, and 10 above.

With regard to claim 21, the limitations in this method claim are all taught in the discussion of apparatus claim 1 above.

With regard to claim 22, see the rejection of claim 1 above, and note that it would be obvious to implement the teachings of Sterner in software in order to allow for the repeatability of the process.

3. Claims 2, 4 – 6, 8, 12, 14 – 16, and 18 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. patent 6,728,216 to Sterner et al as applied to claims 1, 3, 7, 9 – 11, 13, 17, and 19 – 22 above, and further in view of U.S. patent 6,671,831 to Sartore et al.

Sterner et al teach the invention as described above, but do not teach resetting the transmission mode to an “optimal” mode.

Sartore teaches operating in both slower, or disconnect modes depending upon the conditions present. See col 3 lines 39+.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have reset the transmission speed of Sterner et al to an optimum value in light of the teachings of Sartore in order to optimize the data rate transfer based on local conditions.

With regard to claim 4, see col 8, lines 25+ (cable).

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With regard to claims 5 – 6, see col 4 lines 47+, and note that the system is able to detect the installation/deinstallation of the connection, which would obvious to implement through some form of mechanical switch.

With regard to claim 8, 12, 14, 15, 16, and 18, see the rejections above where all of the claim limitations are discussed.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Blount whose telephone number is 571 - 272 - 3071. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Chau Nguyen, can be reached on 571 – 272 - 3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SB
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6/6/05


Ajit Patel
Primary Examiner